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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,705	06/27/2003	Martin W. Masters	2003P08280US	9635
7590	12/16/2005			
Alexander J. Burke Intellectual Property Department 5th Floor 170 Wood Avenue South Iselin, NJ 08830			EXAMINER	DABNEY, PHYLESHA LARVINIA
			ART UNIT	PAPER NUMBER
			2646	
DATE MAILED: 12/16/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/608,705	MASTERS, MARTIN W.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Phylesha L. Dabney	2646	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 9/27/05.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-4, 6 and 7 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-4, 6 and 7 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 27 September 2005 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

This action is in response to the application filed on 27 September 2005 in which claims 1-4, and 6-9 are pending.

### *Drawings*

The drawings were received on 27 September 2005. These drawings are acceptable.

### *Claim Objections*

Claim 9 is objected to because of the following informalities: the claim status identifier is incorrect. Claim 9 should have been identified as “New”. The Applicant next response should address the claim as “previously presented”, “currently amendment”, “cancelled”, or any other appropriate status identifier. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Narisawa (U.S. Patent No. 5,347,584).

Regarding claim 1, Narisawa teaches a hearing instrument, comprising: a housing (21), the housing comprising inside and outside surfaces and an opening (22) for an electronics

module; and an electronics module (23-30), for insertion into the opening of the hearing instrument housing, comprising: generally parallel planar upper and lower surfaces (fig. 4); a peripheral surface (edge of module comprising 23-30), located between the upper and lower surfaces and oriented generally perpendicular thereto, the peripheral surface conforming to the opening in the housing; a door (27) and hinge (26); and a tab (27D) in the vicinity of the hinge, the tab comprising a portion (portion of tab 27D that clips fastener 21A) protruding outwardly from the module and having an orientation generally perpendicular to the peripheral surface, and comprising an upper surface generally coplanar with the lower surface of the module.

Regarding claims 2 and 4, as shown in the figures, Narisawa teaches the inside surface of the hearing instrument housing (area including 22) is generally planar in the vicinity of the opening; and the upper surface of the tab (27D) is generally coplanar with and adjacent the inside surface of the housing when the module is seated in the opening of the housing, such that the upper surface of the tab opposes the inside surface of the housing which reads on the tab offering resistance to movement (Applicant's argument) as shown by the clipping action of the figures.

Regarding claim 3, Narisawa teaches a module for insertion into an opening in a hearing instrument housing, where the housing (21) comprises inside and outside surfaces, comprising: generally parallel planar upper and lower surfaces (fig. 4); a peripheral surface (edge of module comprising 23-30), between the upper and lower surfaces and oriented generally perpendicular thereto, the peripheral surface conforming to the opening in the housing; a door (27) and hinge (26); and a tab (25a, 25b) in the vicinity of the hinge, the tab comprising a portion protruding outwardly from the module and having an orientation generally perpendicular to the peripheral surface, and comprising an upper surface generally coplanar with the lower surface of the

module.

Regarding claims 6-7, see the rejection of claims 1-4, wherein the term “member” in claims 6-7 is the same as the term “tab” in claims 1-4.

Regarding claims 8-9, Narisawa teaches the module further comprises a flange contiguous with the upper surface of the module, where the flange rests on the outside surface of the housing when the module is seated in the opening of the housing.

***Response to Arguments***

Applicant's arguments with respect to claims 1-9 have been considered but are moot in view of the new ground(s) of rejection.

In the previous office action Narisawa item number 25A-B was used to denote the tab portion. In this new office action Narisawa item number 27D is being used to denote the tab portion as now claimed.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phylesha L. Dabney whose telephone number is 571-272-7494. The examiner can normally be reached on Mondays, Tuesdays, Wednesdays, Fridays 8:30-4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

December 5, 2005

PLD



SINH TRAN  
SUPERVISORY PATENT EXAMINER